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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gabriel G. Marcu	Group Art Unit: 3662
Serial No.: 10/663,574	Examiner: LUKE D. RATCLIFFE
Filed: September 16, 2003	Conf. No.: 5291
	Atty. Dkt.: 2095.000900
For: Positioning A First Surface In A Pre-Determined Position Relative To A Second Surface	Client Docket: P3112

REPLY BRIEF

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37 C.F.R 1.8

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February 26, 2008
Date

Signature

Sir:

Appellant hereby submits this Reply Brief in response to the Examiner's Answer mailed December 26, 2007. The two-month statutory response date is February 26, 2008. This Reply Brief is being filed on or before the due date, therefore, it is timely filed.

If an extension of time is required to enable this paper to be timely filed and there is no separate Petition for Extension of Time filed herewith, this paper is to be construed as also constituting a Petition for Extension of Time Under 37 CFR § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

No fee is believed to be due as a result of this filing. However, should any fee(s) under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Commissioner is authorized to withdraw funds from.

REMARKS

Rejection of Claims 1-5, 8, 26 and 27

Appellant respectfully asserts that the Examiner has erred in the maintaining rejections of the claims for at least the following reasons. Claims 1-5, 8, 26, and 27 may be argued separately and are allowable for at least the reasons provided herein and in the Amended Appeal Brief. Contrary to Examiner's assertions in the *Examiner's Answer*, U.S. Patent No. 4,764,010 (***Bachmann***) does not disclose or suggest adjusting a relative position between a first apparatus and a second apparatus based upon adjusting an incident angle of an optical screen, as called for by claims 1, 25 and 27, for several reasons. For example, in the *Examiner's Answer*, the Examiner asserts that ***Bachmann*** discloses receiving a reflected angle on a perforated disc, which has a mark so that the transmitted light can be sent through. *See* page 10 of the *Examiner's Answer*. However, the section cited by the Examiner (col. 4, lines 32-65), as well as other portions of ***Bachmann,*** fail to disclose any subject matter relating to any adjustment of an incident angle based upon the a reflection having a reflected angle, as called by claims 1, 26 and 27.

Bachmann discloses examining whether the "reflected beam describes a circle on the perforated disc 25," and if it does, the disc is not properly aligned and an adjustment is made to the disc. *See* col. 4, lines 39-49. ***Bachmann*** discloses that it may be necessary to "adjust the disc 28 so that it lies exactly at right angles to the axis of the second bracket." *See*, col. 4, lines 31-34. ***Bachmann*** discloses a beam deflecting device 32 that is adjusted to deflect the beam "more or less perpendicularly" to align the second bracket 14c at a right angle to the axis of the first bracket 14a. *See,* col. 4, line 61-col. 5, line 2. However, nowhere in ***Bachmann*** is it disclosed or suggested any subject matter relating to adjusting the relative positions of the first and second apparatuses by adjusting the incident angle based upon the reflection having a

reflection angle. ***Bachmann*** does not determine any type of a reflection angle at all. ***Bachmann*** does not even mention the term "reflection" or "reflective" angle. ***Bachmann*** is directed to examine whether a reflection on the screen form circles is the second bracket is rotated about its axis by 360 degrees. The sizes of these circles are examined. No reflected angle on the perforated disc is examined in ***Bachmann,*** contrary to the Examiner's assertions. ***Bachmann*** simply fails to disclose any calculation of a reflective angle, as called for by the claims and exemplified in the specification of the present application.

Bachmann merely discloses brackets being aligned using a laser. A laser is mounted on the first bracket and directs a beam onto the reflector surface of a disc mounted on the second bracket. The reflected beam produces a dot of light on the perforated disc, which is arranged near the exit aperture of the light source. The second bracket is adjusted such that the dot of light is directed onto the aperture and then the two brackets are regarded as being aligned. ***Bachmann*** discloses that the beam emitted by the light source coincides exactly with the axis of the first bracket and the axis of the beam is aligned with the first bracket. *See* col. 2, lines 4-20 of ***Bachmann.*** ***Bachmann*** discloses that a partial deflection of the beam produces a weak image on the perforated disc 25. If the phase 32a is not at exactly a right angle to the incident beam, a column 33 is then adjusted so that the weak dot of light disappears in the apertures. *See* col. 5, lines 8-13. ***Bachmann*** discloses that the merging light beam is only adjusted in the vertical plane. *See* col. 5, lines 13-16. Therefore, it is apparent from a reading of ***Bachmann*** that ***Bachmann*** uses the disappearance of the weak image of the partially deflected beam to perform alignment. ***Bachmann*** does not disclose adjusting the position between the first and second devices based on the reflection having a reflected angle by adjusting the incident angle. In fact, ***Bachmann*** clearly does not disclose adjusting the incident angle at all. ***Bachmann*** does not disclose any type of a measurement or

analysis of the incident angle or a reflection having a reflected angle at all.

Still further, ***Bachmann*** is directed to aligning two brackets or portions of a single apparatus, in contrast to claims 1, 26 and 27. **Bachmann** describes aligning axes of different portions of a single apparatus, *i.e.*, aligning two or more bracket-axes relative to each other on a testing or processing machine. In the testing or processing machine described by ***Bachmann,*** the axis of a second bracket is aligned relative to the axis of a first bracket on the same testing or processing machine. In other words, ***Bachmann*** describes a single testing machine whose brackets with their axes are to be aligned relative to each other. Further, as described above, ***Bachmann*** has other serious deficiencies. Accordingly, ***Bachmann*** fails to disclose or suggest all of the elements of independent claims 1, 26 and 27 of the present application. Further, dependent claims 1-5 and 8, which depend from claim 1, are also allowable for similar reasons. Therefore, claims 1, 2-5, 8, 26 and 27 are allowable.

Rejection of Claims 10-13 and 18

The response to the rejection of claims 10-13 and 18 may be argued separately and are allowable for at least the reasons cited herein and in the Amended Appeal Brief. Claim 10 calls for an optical source fixed to a first apparatus, wherein the optical source is capable of directing an incident light onto a second apparatus. The system also includes a light receiving unit to receive reflected light from the second apparatus, wherein the light receiving unit comprises a circuit to detect the position of the reflected light. The position of the reflected light is used to adjust the position of the first and second apparatuses. The Examiner admits that ***Bachmann*** fails to disclose the circuit called for by claim 10. The Examiner cites U.S. Patent No. 5,026.998 (***Holzl***) to make up of the lack of disclosure of ***Bachmann.*** However, ***Holzl*** does not disclose or make obvious the circuit called for by claim 10. The Examiner points to a "screen that produces two

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Rejection of Claims 10-13 and 18

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electrical signals and the corresponding circuitry." *See* page 11 of the *Examiner's Answer*. However, there is no disclosure in ***Holzl*** relating to any type of a circuit associated with the screen or the "corresponding circuitry" cited by the Examiner. The Examiner had pointed to item no. 7 in *See* ***Holzl,*** to argue obviousness of the circuit of claim 10. However, ***Holzl*** merely discloses proximate the first shaft 1, there is a measuring receiver 7 fixed in relation to the light source 5. *See* ***Holzl,*** col. 4, lines 19-22. ***Holzl*** also refers to item No. 7 of Figure 1 as "position detector 7" wherein the position detector 7 produces two signals S_x, S_y which corresponds to the X and Y coordinate of the position A of the incidence of the light beam on the position detector 7. *See* ***Holzl,*** col 4, lines 22-31. However, ***Holzl*** also discloses that S_x, S_y correspond to electrical signals that is indicative of the size and the prefix sign of mutually perpendicular components S_x, S_y of the distance of the respective point of incidence. *See* ***Holzl,*** col 4, lines 51-56. Therefore, it would not be clear to those skilled in the art that the measuring receiver 7 actually generates electrical signals that is indicative of the position of the reflective light. ***Holzl*** does not describe a circuit that actually detects the position of the reflected light. Therefore, ***Holzl*** does not make up for the deficit of ***Bachmann***.

Applicants respectfully assert that ***Bachmann***, ***Holzl***, and/or their combination do not teach or disclose all of the elements of claim 10 of the present application. In order to establish a prima facie case of obviousness, the Examiner must consider the following factors: 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings; 2) there must be a reasonable expectation of success; and 3) the prior art reference(s) must teach or suggest all the claim limitations. MPEP § 2143 (2005) (citing *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In making an obviousness rejection, it is necessary for the Examiner to identify the

reason why a person of ordinary skill in the art would have combined the prior art references in the manner set forth in the claims. *KSR Int'l Co. v. Teleflex, Inc.*, at 14, No. 04-1350 (U.S. 2007). Applicants respectfully submit that the Examiner has not met this burden. If fact, as illustrated herein and in the Amended Appeal Brief, ***Bachmann*** and ***Holzl*** are incompatible, and consequently those skilled in art would not combine them and make all of the elements of claims of the present invention obvious. Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been established in rejecting claims 10-13 and 18.

Those skilled in the art would not combine the non-analogous art of ***Bachmann*** and ***Holzl*** without improper hindsight, in order to make obvious all of the elements of claims of the present invention. ***Holzl*** is directed to checking the coaxial alignment of tandem-arranged shafts. In contrast, ***Bachmann*** is directed to aligning a first bracket and a second bracket. It is improper hindsight reasoning to combine these non-analogous prior art references to argue obviousness of all of the elements of yet another non-analogous subject matter of claims of the present invention. There is no evidence of motivation within the cited prior art that would lead those skilled in the art to combine ***Bachmann*** and ***Holzl*** to read upon the element of claim 10 of the present invention. The Examiner failed to identify the reason why a person of ordinary skill in the art would have combined ***Bachmann*** and ***Holzl*** in the manner set forth in claim 10. *KSR Int'l Co. v. Teleflex, Inc.*, at 14. Further, as described above, even if ***Bachmann*** and ***Holzl*** were to be combined, all of the elements of claim 10 would not be taught or made obvious. Further, claim 18 calls for the first apparatus to be a testing device, which again, is not disclosed by either ***Bachmann, Hold*** *or* their combination. Therefore, the Examiner has failed to establish *a prima facia* case of obviousness of claims 10 and 18 of the present invention. Further, dependent claims 11-13 and 18, which depend from claim 10 are also allowable for at least the reasons provided herein and in the Amended

Appeal Brief.

Rejection of Claim 19

The response to the rejection of claim 19 may be argued separately and is allowable for at least the reasons cited herein and in the Amended Appeal Brief. The combination of ***Bachman, Holzl,*** and U.S. Patent No. 5,872,623 (***Stabile***) does not teach, disclose or make obvious all of the elements of claim 19 of the present invention. Claim 19 calls for the testing device being either a photometer or a radiometer. The Examiner cited ***Stabile*** to argue obviousness of the photometer and the radiometer and cites Figure 1B, reference 205. Figure 1B, reference 205 refers to a "planer substrate". However, the object that the Examiner suggests is a photometer or a radiometer is actually a screening array. ***Stabile*** does not make obvious the photometer and the radiometer being a testing device, as called for by claim 19 of the present invention. Further, as shown above, the claim from which claim 19 depends (i.e., claim 18) is not made obvious by ***Bachmann, Hold*** *or* their combination, and ***Stabile*** does not make up for this deficit. Therefore, the Examiner failed to show a *prima facie* case of obviousness of claim 19, and thus, claim 19 is allowable.

Rejection of Claims 20, 21, 38-41, 44 and 45

The response to the rejection of claims 20, 21, 38-41, 44 and 45 may be argued separately and are allowable for at least the reasons cited herein and in the Amended Appeal Brief. The combination of ***Bachman, Holzl,*** and U.S. Patent No. 4,225,241 (***Dankliker***) does not teach, disclose or establish *a prima facia* case of obvious as to all of the elements of claims 20, 21, 38-41, 44 and 45 of the present invention. Claims 20 refers to the second apparatus being a computer display device and claim 21 relates to the computer display device being an LCD screen. Further claim 38 refers to the second apparatus being a television display and claims 39

and 44 relate to the computer display device being LCD screens. Further, claim 40 relates to testing unit and a computer display. Claim 45 provides for the computer display having a reflective material affixed. The Examiner adds the disclosure of ***Dankliker,*** which refers to an *LCD.* ***Dankliker*** discloses a collimated light beam being passed through transparent texture marking and adjusting the relative position of the planer transparent objects. However, neither ***Bachmann*** nor ***Dankliker*** calls for the alignment of an apparatus based upon the reflected light, as called for by claims 20, 21, 38-41, 44 and 45.

Further, ***Dankliker*** and ***Bachmann*** are directed to diverse subject matter and those skilled in the art would not find motivation in the prior art to combine them without using improper hindsight to make obvious all the elements of claims 20, 21, 38-41, 44 and 45. The Examiner failed to identify the reason why a person of ordinary skill in the art would have combined ***Dankliker*** and ***Bachmann*** in the manner set forth in claim 20, 21, 38-41, 44 and 45. *KSR Int'l Co. v. Teleflex, Inc.*, at 14. However, even when combined as described above, all of the elements of claims 20, 21, 38-41, 44 and. 45 would not be taught, disclosed or make obvious. Therefore, the Examiner failed in providing *a prima facia* establishment of obviousness of claims 20, 21, 38-41, 44 and 45 of the present invention. Accordingly, claims 20, 21, 38-41, 44 and 45 are allowable for at least the reasons cited herein.

Further claims 28-30, 36 and 42-43 are not anticipated or made obvious by the various cited prior references for at least the reasons cited herein and in the Amended Appeal Brief. Therefore, claims 28-30, 36 and 42-43 are also allowable for at least the separate reasons cited in the Amended Appeal Brief.

In light of the arguments presented herein and in the Amended Appeal Brief, Appellant respectfully asserts that the Examiner erred in maintaining the rejections of the pending claims

and thus, the rejection should be reversed.

The undersigned attorney may be contacted at (713) 934-4069 with respect to any questions, comments, or suggestions relating to this appeal.

Respectfully submitted,

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Date: February 26, 2008

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